

REMARKS

Claims 1, 4-23, and 26-36 are pending in the application. In section 1 of the office action, the Examiner rejected claims 1, 4-11, 21-23, 26, 28, and 29-33 under 35 USC § 103(a) as being unpatentable over US patent 5,884,032 to Bateman et al. (hereinafter Bateman) in view of US patent 4,052,570 to Sutton (hereinafter Sutton) in further view of US patent application 2001/0040887 to Shtivelman et al. (hereinafter Shtivelman).

The Examiner does not take into account that outbound telephone lines used to communicate with customers by a call center are a valuable resource. An immediate and continuous redialing would require providing continuous use of an outbound telephone line. A call center cannot afford to waste outbound telephone lines to use a predictive dialer to immediately and continuously call every customer with a busy signal.

As previously discussed, Bateman concerns a system for allowing a call center agent and a customer to simultaneously talk on the telephone and view information available on a computer network over a telephone line and a separate second network connection. Because the agent, in the Bateman system, calls the customer back on a separate line than the line that the user uses

to access information on the computer network, Bateman does not confront the problem of how to best call back an inquiring party on the same line that the inquiring party used to access information on the computer network.

Applicant does not submit that only a 102 reference showing all the limitations of applicant's invention would preclude patentability. However, Applicant does contend that a critical step in analyzing the patentability of claims pursuant to section 103(a) is casting the mind back to the time of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field.

The office action asserts there is a motivation to keep re-trying/redialing a customer when a busy signal is encountered. However, this does not take into account that a call center cannot afford to waste telephone outbound lines. If one were to combine Bateman and Sutton as the office action suggests, every customer that the call center encounters with a busy line would require the use of an outbound telephone line. These outbound telephone lines would prevent use by agents of the call center in attempting to contact other customers that are available for immediate

conversation. The combination does not teach Applicant's claimed invention, nor would an individual skilled in the art be motivated to combine the teaching of Bateman and Sutton due to the demand on outbound telephone resources. Neither Bateman nor Sutton teach or suggest how to balance the use of continuous redialing with the management of outbound telephone resources.

The problem solved by the present invention demonstrates how best to connect a telephone call to an inquiring party using a telephone line when the inquiring party has prompted the call by accessing a computer network using the telephone line. The present invention is based upon the recognition that the best time to respond to the inquiring party's request is immediately, and further that the inquiring party's telephone line will be busy; however in these specific circumstances, the demand on outbound telephone resources is outweighed by the benefit of contacting the customer immediately. Accordingly, the systems and methods of the present invention immediately redial the inquiring party's telephone number when a busy signal is detected so as to connect the call as soon as possible after the inquiring party has ended his modem's connection to the network over the telephone line.

Shtivelman contains no recognition of the problem addressed

by the present invention, let alone its solution. Thus, no combination of Bateman, Sutton, and Shtivelman teaches or suggests the present invention to one of ordinary skill in the art. Accordingly, Applicant submits that the rejections of claims 1, 4-11, 21-23, 26, 28, and 29-33 under 35 USC 103(a) as being unpatentable over Bateman, Sutton, and Shtivelman are improper and should be withdrawn.

In section 3, claims 12-20, 27, and 34-36 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,884,032 to Bateman et al. (hereinafter Bateman) in view of U.S. Patent No. 4,052,570 to Sutton (hereinafter Sutton) and further in view of U.S. Patent No. 5,214,688 to Szlam et al. (hereinafter Szlam). Applicant respectfully traverses this rejection.

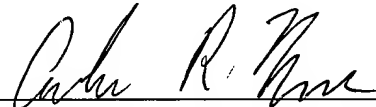
As previously discussed, neither Bateman nor Sutton teach or suggest how to balance the use of continuous redialing with the management of outbound telephone resources. Szlam also does not teach or suggest the solution that Applicant's claimed invention provides. If anything, Szlam teaches away from Applicant's claimed solution by suggesting pacing of the predictive dialer and assigning a call to a next campaign.

In re: Malcom B. Strandberg
Filed: September 28, 1998
Serial No.: 09/161,816
Page 20

In view of the foregoing, Applicant believes that all of the pending claims are in condition for allowance and requests early and favorable action on the merits. The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

Respectfully submitted,

Malcom B. Strandberg

By 
Andrew R. Martin, Esq.
Registration No. 45,413
Attorney for Applicant

BOURQUE & ASSOCIATES, P.A.
835 Hanover Street, Suite 301
Manchester, New Hampshire 03104

Telephone: (603) 623-5111
Facsimile: (603) 624-1432

Date: 10/12/05